

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA

UNITED STATES OF AMERICA

Plaintiff,

vs.

HENRY THOMAS,

Defendant.

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Case No.:CR-294-WKW

JURY CHARGES OF DEFENDANT

Comes the defendant who requests this Court charge the jury as follows:

1. The indictment is not evidence in this case. It is merely the device used to bring a charge against the defendant. The mere fact of an indictment does not mean anything.
2. The defendant is presumed innocent. That presumption is as real a piece of evidence as anything the may come from the witness stand. The presumption of innocence follows the defendant into the jury deliberation room with you all.
3. The burden of proof in this case is on the United States of America to proof each and every single element of all charges beyond a reasonable doubt.
4. The burden of proof in a criminal case is much higher than the burden of proof in a civil case.
5. If the United States fails to prove just one element of an offense charged against the defendant, then they have failed to prove that charge beyond a reasonable doubt. In that case, you must return a not guilty verdict on that charge.
6. The verdict not guilty is not the same as finding one innocent. One may be found not guilty which does not mean the same as innocent.
7. Title 18, United States Code, Section 500, makes it a Federal crime or offense for anyone to:

Whoever, with intent to defraud, falsely makes, forges, counterfeits, engraves, or prints any order in imitation of or purporting to be a blank money order or a money order issued by or under the direction of the Post Office Department or Postal Service; or

1. Whoever forges or counterfeits the signature or initials of any person authorized to issue money orders upon or to any money order, postal note, or blank therefor provided or issued by or under the direction of the Post Office Department or Postal Service, or post office department or corporation of any foreign country, and payable in the United States, or any material signature or indorsement thereon, or any material signature to any receipt or certificate of identification

thereof; or

Whoever falsely alters, in any material respect, any such money order or postal note; or

Whoever, with intent to defraud, passes, utters or publishes or attempts to pass, utter or publish any such forged or altered money order or postal note, knowing any material initials, signature, stamp impression or indorsement thereon to be false, forged, or counterfeited, or any material alteration therein to have been falsely made; or

Whoever issues any money order or postal note without having previously received or paid the full amount of money payable therefor, with the purpose of fraudulently obtaining or receiving, or fraudulently enabling any other person, either directly or indirectly, to obtain or receive from the United States or Postal Service, or any officer, employee, or agent thereof, any sum of money whatever; or

Whoever embezzles, steals, or knowingly converts to his own use or to the use of another, or without authority converts or disposes of any blank money order form provided by or under the authority of the Post Office Department or Postal Service; or

Whoever receives or possesses any such money order form with the intent to convert it to his own use or gain or use or gain of another knowing it to have been embezzled, stolen or converted; or

Whoever, with intent to defraud the United States, the Postal Service, or any person, transmits, presents, or causes to be transmitted or presented, any money order or postal note knowing the same—

- (1) to contain any forged or counterfeited signature, initials, or any stamped impression, or
- (2) to contain any material alteration therein unlawfully made, or
- (3) to have been unlawfully issued without previous payment of the amount required to be paid upon such issue, or
- (4) to have been stamped without lawful authority; or

Whoever steals, or with intent to defraud or without being lawfully authorized by the Post Office Department or Postal Service, receives, possesses, disposes of or attempts to dispose of any postal money order machine or any stamp, tool, or instrument specifically designed to be used in preparing or filling out the blanks on postal money order forms—

Shall be fined under this title [11](#) or imprisoned not more than five years, or both.

You the jury may not find the defendant of both Counts 1-11 and Counts 12-22 or of any of the particular checks contained in Counts 1-11 and in Counts 12-22.

8. The testimony of some witnesses must be considered with more caution than the testimony of other witnesses.

Eye witness identification for example is suspect.

9. A "reasonable doubt" is a real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. If you are convinced that the Defendant has been proved guilty beyond a reasonable doubt, say so. If you are not convinced, say so.

10. Now, in saying that you must consider all of the evidence, I do not mean that you must accept all of the evidence as true or accurate. You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision you may believe or disbelieve any witness, in whole or in part. Also, the number of witnesses testifying concerning any particular dispute is not controlling.

In deciding whether you believe or do not believe any witness I suggest that you ask yourself a few questions: Did the witness impress you as one who was telling the truth? Did the witness have any particular reason not to tell the truth? Did the witness have a personal interest in the outcome of the case? Did the witness seem to have a good memory? Did the witness have the opportunity and ability to observe accurately the things he or she testified about? Did the witness appear to understand the questions clearly and answer them directly? Did the witness's testimony differ from other testimony or other evidence?

11. Title 18, United States Code, Section 2114 (b), makes it a Federal crime or offense for anyone to :

a) Assault.— A person who assaults any person having lawful charge, control, or custody of any mail matter or of any money or other property of the United States, with intent to rob, steal, or purloin such mail matter, money, or other property of the United States, or robs or attempts to rob any such person of mail matter, or of any money, or other property of the United States, shall, for the first offense, be imprisoned not more than ten years; and if in effecting or attempting to effect such robbery he wounds the person having custody of such mail, money, or other property of the United States, or puts his life in jeopardy by the use of a dangerous weapon, or for a subsequent offense, shall be imprisoned not more than twenty-five years.

(b) Receipt, Possession, Concealment, or Disposal of Property.— A person who receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

The government must prove that the person possession the items, knew that they were stolen at the time he or she possessed them. Mere possession alone is not sufficient for conviction.

12. The testimony of some witnesses must be considered with more caution than the testimony of other witnesses.

For example, a witness who was using addictive drugs during the time he or she testified about may have an impaired memory concerning the events that occurred during that time. Also, a witness who has been promised that he or she will not be charged or prosecuted, or a witness

who hopes to gain more favorable treatment in his or her own case, may have a reason to make a false statement because the witness wants to strike a good bargain with the Government.

So, while a witness of that kind may be entirely truthful when testifying, you should consider that testimony with more caution than the testimony of other witnesses.

13. Mr. Thomas does not have to prove himself innocent or not guilty. The burden of proof is entirely upon the United States to prove to you beyond a reasonable doubt the Mr. Thomas is guilty.

S/James R. Cooper, Jr.
James R. Cooper, Jr. (COO021)
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CERTIFICATE OF SERVICE

I hereby certify that on this the 30TH day of July, 2007, I have served a copy of the foregoing Jury Charges upon the assistant United States Attorney, Susan Redmond by placing a copy of same in the United States Mail properly addressed and postage prepaid./by hand delivery./by fax and efilng.

S/James R. Cooper, Jr.